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De Sol Corp., Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(Oakland Division)

De Sol Corp., Inc., a California corporation,

Plaintiff,

vs.

Vegas Connection, Inc., a California
corporation; Omar Awad, an individual;
Jahangir Shahriari, an individual,

Defendants.

Case No. C07 4107 SBA

**PLAINTIFFS' OBJECTIONS TO
DECLARATION OF JAHANGIR
SHAHRIARI IN SUPPORT OF
DEFENDANTS' MOTION TO
TRANSFER CASE FOR IMPROPER
VENUE**

**Hearing Date: December 18, 2007
Time: 1:00 p.m.
Dept.: 3**

Plaintiff hereby formally objects to the purported evidence submitted to the Court in support of Defendants' Motion to Transfer Case for Improper Venue. The declaration of Jahangir Shahriari in support of Defendants' motion is objectionable for the following reasons:

DEFENDANTS' EVIDENCE

OBJECTION(S)

Declaration of Jahangir Shahriari in Support of Defendants' Motion to Transfer Case for Improper Venue ("Decl. of Shahriari")

The entire Declaration of Jahangir Shahriari is deficient and cannot be considered as evidence. The Declaration is not sworn or subscribed as true under penalty of perjury as required by law. 28 U.S.C. § 1746.

"Factual contentions made in support of or in

1		opposition to any motion must be supported by an affidavit or declaration and by appropriate references to the record.” N.D.C.A. Local Rule 7-5(a).
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3		Here, the purported evidence offered in Mr. Shahriari’s Declaration is critical to the outcome of the Motion to Transfer.
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5		Mr. Shahriari claims that certain individuals will act as witnesses in support of Defendants’ defense; however, most of those witnesses are not going to offer such testimony against Plaintiff. See Decl. of Roberto Alvaro in Support of Opposition to this Motion ¶¶ 17-19.
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7		Nothing in Mr. Shahriari’s Declaration can be considered competent, admissible evidence. Mr. Shahriari makes serious accusations of fraud, scams, conspiracy, and/or unscrupulous conduct against Plaintiff but, importantly, such accusations are not attested to under penalty of perjury, nor are such accusations sworn in the presence of a notary public.
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9		Mr. Shahriari’s testimony about potential witnesses in favor of Vegas Connection’s defense, who allegedly reside in Los Angeles, likewise cannot be considered or treated as admissible evidence. The same applies to Mr. Shahriari’s statements about convenience and fairness and burden of having the action tried in Northern, as opposed to Southern, California.
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11		Accordingly, Plaintiff would be substantially prejudiced if the Court were to allow Mr. Shahriari’s Declaration to pass as admissible evidence.
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13		The entire Motion must be denied because without any evidence whatsoever to support the Motion, the jurisdictional assertions in the Complaint are not contradicted.
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24	Decl. of Shahriari ¶ 9, Page 3, Lines 6-12.	Irrelevant. Defendant’s arguments related to familial relations and unrelated cases against unrelated parties have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by
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1		Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.
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3		Argumentative and conclusory. Contains
4		improper legal argument. Declarations must
5		contain facts and avoid conclusions and
6		arguments in order to constitute admissible
7		evidence. Northern District of California
8		Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61
9		Cal.App.4th 1384, 1390 (1998); Cal. Code of
10		Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224
11		Cal.App.2d 442, 444-445 (1964)(declaration
12		must be factual and based on personal
13		knowledge to be admissible.)
14	Decl. of Shahriari ¶ 13, Page 3, Lines 26-28,	Argumentative, conclusory, and lacks
15	Page 4, Line 1.	foundation. Contains improper legal argument.
16		Declarations must contain facts and avoid
17		conclusions and arguments in order to
18		constitute admissible evidence. Northern
19		District of California Local Rule 7-5; <u>Generale</u>
20		<u>Bank Nederland, N.V. v. Eyes of the Beholder</u>
21		<u>Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal.
22		Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg.</u>
23		<u>Co. v. Superior Court of Los Angeles County</u> ,
24		224 Cal.App.2d 442, 444-445
25		(1964)(declaration must be factual and based
26		on personal knowledge to be admissible.)
27		Defendant's bare, unsupported contentions of
28		alleged scams and/or conspiracies have no
		bearing whatsoever on the issue presently
		before the Court concerning proper venue in
		the action by Plaintiff against Defendants
		Vegas Connection, Inc., Omar Awad, and
		Jahangir Shahriari.
	Decl. of Shahriari ¶ 14, Page 4, Lines 2-9.	Irrelevant. Defendant's arguments concerning
		unrelated cases involving unrelated parties
		have no bearing whatsoever on the issue
		presently before the Court concerning proper
		venue in the action by Plaintiff against
		Defendants Vegas Connection, Inc., Omar
		Awad, and Jahangir Shahriari.
		Argumentative, conclusory, and lacks

	<p>foundation. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u>, 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u>, 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Defendant's bare, unsupported contentions of alleged scams and/or conspiracies have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.</p>
Decl. of Shahriari ¶ 15, Page 4, Lines 10-18.	<p>Irrelevant. Defendant's arguments concerning unrelated cases involving unrelated parties have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.</p> <p>Argumentative, conclusory, and lacks foundation. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u>, 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u>, 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Defendant's bare, unsupported contentions of alleged scams and/or conspiracies have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.</p>

	Lacks foundation. Defendant's comments about Plaintiff trying to "trick" the Court lack any foundation whatsoever and are wholly inappropriate in the context of this Motion, or in any context, when such comments lack any relevancy and/or foundation.
Decl. of Shahriari ¶ 16, Page 4, Lines 19-26.	Argumentative, conclusory, and lacks foundation. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Defendant's bare, unsupported contentions of alleged scams and/or conspiracies have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.
Decl. of Shahriari ¶ 17, Page 4, Lines 27-28, Page 5, Lines 1-3.	Argumentative, conclusory, and lacks foundation. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Defendant's bare, unsupported contentions of alleged scams and/or conspiracies have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.

Decl. of Shahriari ¶ 18, Page 5, Lines 4-8.	Argumentative, conclusory, and lacks foundation. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Defendant's bare, unsupported contentions of alleged scams and/or conspiracies have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.
Decl. of Shahriari ¶ 19, Page 5, Lines 9-15.	Argumentative, conclusory, and lacks foundation. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Defendant's bare, unsupported contentions of alleged scams and/or conspiracies have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.
Decl. of Shahriari ¶ 20, Page 5, Lines 16-26	Argumentative, conclusory, and lacks foundation. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale</u>

	<p><u>Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u>, 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u>, 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Defendant's bare, unsupported contentions of alleged scams and/or conspiracies have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.</p>
Decl. of Shahriari ¶ 21, Page 5, Lines 27-28, Page 6, Lines 1-5	<p>Argumentative, conclusory, and lacks foundation. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u>, 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u>, 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Defendant's bare, unsupported contentions of alleged scams and/or conspiracies have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.</p>
Decl. of Shahriari ¶ 22, Page 6, Lines 6-12.	<p>Argumentative. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u>, 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u>, 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.)</p>

Decl. of Shahriari ¶ 23, Page 6, Lines 13-17.	Argumentative. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.)
Decl. of Shahriari ¶ 24, Page 6, Lines 18-19.	Lacks foundation; argumentative. Defendant lacks personal knowledge of the whereabouts of Plaintiff's accounting records and bank records which will be used to support Plaintiff's case. Such records are not located in Los Angeles, as Defendant contends.
Decl. of Shahriari ¶ 25, Page 6, Lines 20-22.	Irrelevant. Defendant's arguments concerning unrelated cases involving unrelated parties have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari. Argumentative, conclusory, and lacks foundation. Contains improper legal argument. Declarations must contain facts and avoid conclusions and arguments in order to constitute admissible evidence. Northern District of California Local Rule 7-5; <u>Generale Bank Nederland, N.V. v. Eyes of the Beholder Ltd.</u> , 61 Cal.App.4th 1384, 1390 (1998); Cal. Code of Civ. Proc. § 2015.5; <u>Tri-State Mfg. Co. v. Superior Court of Los Angeles County</u> , 224 Cal.App.2d 442, 444-445 (1964)(declaration must be factual and based on personal knowledge to be admissible.) Defendant's bare, unsupported contentions of alleged scams and/or conspiracies have no bearing whatsoever on the issue presently before the Court concerning proper venue in the action by Plaintiff against Defendants Vegas Connection, Inc., Omar Awad, and Jahangir Shahriari.

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3 Plaintiff therefore requests that the Court not consider any of the objectionable
4 “evidence” submitted by Defendants, as set forth above.

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6 DATED: November 27, 2007

GREENE, CHAUVEL, DESCALSO & MINOLETTI

7 BY: _____
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9 BRANDON L. REEVES
10 Attorneys for Plaintiff
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